

This record is a partial extract of the original cable. The full text of the original cable is not available.

131704Z Jun 05

UNCLAS MADRID 002273

SIPDIS

E.O. 12958: N/A

TAGS: PHUM PGOV SP

SUBJECT: JUSTICE MINISTRY REJECTS REGISTRATION OF CHURCH OF SCIENTOLOGY

1. Charge met on June 6 with Ministry of Justice Under Secretary Ana Maria Miguel and director of the MOJ's Office

SIPDIS

of Religious Affairs Mercedes Rico Carabias to discuss the MOJ's May 18 decision to reject the Church of Scientology's application to register as a religious organization. Charge noted that the Church of Scientology was legally recognized in the U.S. and that we were requesting that it be afforded the same treatment in Spain as any other religious organization. Miguel and Carabias said that the MOJ had determined that it could not register the Church of Scientology because the Spanish Supreme Court had twice upheld an earlier administrative decision to deny registration in 1993 and 1994. MOJ acceptance of the Church of Scientology's new application for registration would in effect overturn those Supreme Court decisions, in violation of Spanish legal norms. They proposed that the Church of Scientology's Spanish attorneys challenge the earlier denials of registration in the National Court, the Supreme Court, and the Constitutional Court.

2. Carabias said the Office of Religious Affairs had not reviewed the substance of the Church of Scientology's application but, had there been no previous legal determination barring the Church's application, believed it would likely have been approved without difficulty. She said she understood that the Church of Scientology would have preferred a favorable administrative decision by the Ministry of Justice, but that there was no recourse other than legal action. Carabias said her office was only concerned with whether the organization (church) that filed the 2005 application for registration was the same organization whose denial of registration had been upheld in 1993 and 1994. Once the MOJ found both organizations to be one and the same (same doctrine, organization, and leadership), the Office of Religious Affairs had no choice but to deny the applications.

3. Carabias and Miguel disputed the Church of Scientology's contention that a 2001 determination by the Constitutional Court requiring the MOJ to accept the registration of the Unification Church (which had also been previously denied the right to register) created a precedent favorable to the Church of Scientology's case. They said 2001 Constitutional Court's finding applied solely to the Unification Church and did not constitute an instruction to the MOJ to ignore prior legal decisions against registration applications by other denominations. Miguel said that the Constitutional Court would likely find in favor of the Church of Scientology, though she acknowledged that the legal process could take several years.

4. Charge pressed Miguel on whether the MOJ had the discretion to interpret the new application by the Church of Scientology, particularly in light of the fact that the new criteria for registration of religious organizations was substantially different than when the Church of Scientology made its original application. Miguel said that the MOJ did not have such discretion and that the Minister of Justice had no authority to reverse a ruling of the Supreme Court.

5. Charge noted that the rejection of the Church of Scientology's application for registration would be discussed in the Embassy's draft of the annual International Religious Freedom Report. Carabias said that the GOS had great respect for the IRF and read it closely. She said she hoped that any discussion of this issue in the IRF would be cast in the appropriate context - as an administrative decision. Carabias stressed that the GOS would not interfere with any of the activities of the Church of Scientology and, while she understood the Church wanted to register for reasons of principle, said the MOJ's refusal of its application would have no tangible effect. For example, registration (or non-registration) had no bearing on a religious organization's tax exempt status. Carabias said the main purpose of registration was as a means for the GOS to filter out organizations with a primarily commercial rather than religious character - an issue she insisted did not apply with respect to the Church of Scientology. She said this case represented a "legal knot held over from the 1980s and 1990s" and that there could only be a legal, not

administrative solution.

MANZANARES